

**City of Warwick Planning Board  
Meeting Minutes  
Wednesday, February 13, 2013**

**Members Present:** Philip Slocum, Chairman  
Vincent Gambardella, Vice Chairman  
Cynthia Gerlach  
Thomas Kiernan  
Steve Horowitz  
John Mulhearn  
Sue Stenhouse

**Members Absent:** Laura Pisaturo  
James Desmarais

**Also in attendance:** William J. DePasquale, Jr. Administrative Officer  
Patricia Reynolds, Business Development Planner  
Lidia Cruz-Abreu, Planning Specialist  
Eric Hindinger, Engineer Project Manager  
Peter Ruggiero, Solicitor

Chairman Slocum called the meeting to order at 6:05 pm.

The December 2012 meeting minutes were presented for review and approval. A motion was made by Ms. Stenhouse, seconded by Mr. Kiernan, to approve the December meeting minutes, as presented. All voted in favor; with Ms. Gerlach abstaining.

Mr. Slocum informed the Board that there were two Petitions that had been incorrectly advertised, one on Major Potter Road and one on Florin Street, Bunting and Julian Roads. Due to a mistake in the advertisement, both projects will be readvertised and renoticed and heard at next month's Planning Board meeting which is scheduled for March 13, 2013.

## **Public Hearing**

### **Major Land Development Project**

4573-4575 Post Road  
Damocles Realty, LLC

Applicant:	Damocles Realty LLC
Location:	4573-4575 Post Road
Assessor's Plat:	220
Lot:	55
Zoning District:	Residential A-15
Proposed Zone:	Residential A-15 with Planning Unit Development (PUD) overlay
Land Area:	1.27 acres
Number of Lots:	1
Engineer:	Gordon Archibald, Inc and Alpha Associates
Ward:	9

Attorney Jack Revens was present for the Applicant.

Mr. Kiernan recused himself from consideration of this Project. Mr. Slocum stated that since there were only 5 Board Members remaining, the Applicant would need a unanimous vote for approval. Mr. Slocum explained that Mr. Mulhearn had been delayed, but would be arriving at approximately 6:15. Out of fairness to his client, Mr. Revens asked for a recess in order to wait for Mr. Mulhearn's arrival. A motion was made to continue the meeting.

Mr. Mulhearn arrived and Chairman Slocum reopened the meeting at 6:37pm. Attorney John C. Revens of the law firm Revens, Revens and St. Pierre with offices at 936 Centerville Road in Warwick was present to represent the Applicant. Attorney Revens stated the project had received Master Plan Approval from the board in April of 2012 for a 1,148 square foot addition to an existing dental office. After receiving Master Plan approval, the Applicant appeared before the Warwick City Council with a request for a zone change. The City Council approved the requested zone change and the Applicant was now back before the Planning Board for Preliminary Approval, with Final Approval to be through the Administrative Officer.

Mr. Revens explained that the property has been used as a dental office for more than 50 years. In the 1960's, Dr. Underhill owned the building and was one of three dentists practicing in the building. In addition to the dental office, Dr. and Mrs Underhill raised a family of 9 children in the building. Approximately 25 years ago, the Underhills moved out the building and came before the City for approval to convert the residential portion of the building to 5 apartment units. The property has remained in that configuration, 3 full time dentists and 5 apartment units since.

Mr. Revens then explained that the Applicant is proposing a small addition of 1,148 square feet on the south side of the building and the reason for the addition is to make the office ADA compliant. Currently, there are treatment facilities on the lower level, with access provided by a spiral staircase. This addition will move all of the treatment rooms up to the main floor. As per stipulations at Master Plan, his client prepared a detailed landscape plan which was submitted to the Planning Department for review. Also representing the project were the Applicant, Dr. Kirk and the Surveyor, Harry Miller, of Alpha Associates. Mr. Revens then asked Mr. Miller to present the plans to the Board.

Mr. Miller stated that he is a land surveyor with Alpha Associates in East Greenwich, RI. He explained the basic layout of the plan to the Board, indicating the location the proposed addition and the location of the new parking area, which he estimated to be 30' to 35' from the westerly property line. He indicated that the stipulations from the Master Plan phase of the project had been addressed, including access for fire apparatus and supplemental plantings as presented on a separate landscape plan not prepared by his firm.

Mr. Revens presented pictures of the subject parcel to Mr. Miller and asked if they were an accurate representation of the project. Mr. Miller responded that there were. Mr. Revens asked to have the pictures accepted by the Board as a Petitioner's Exhibit.

Mr. Slocum asked if any of the Board members had questions. Ms. Gerlach asked if the addition is one or two stories. Mr. Revens responded that it will be a one story addition and there will be no change to the residential portion of the building. Being no further questions from the Board, the Chair asked for a motion to open the public hearing. A motion to open the public hearing was made by Mr. Gambardella and seconded by Mr. Mulhearn. The Chair asked if there was any one present to be heard for this application.

Mr. Richard A. Barkin, of 230 Spencer Avenue, Warwick, presented a written statement. This was distributed to the Board members and staff and marked as Exhibit A, for informational purposes. Mr. Barkin read the prepared statement. In addition to the statement, Mr. Barkin is worried that he is getting older and may have to sell his property. He is concerned that any potential buyer will walk away when they look over the fence at an abutting business, and he is only asking for landscaping in return. He is excited that the practice is expanding, but as a property owner he is worried, nervous and scared that his property value will decrease. The home is a historic building, constructed between 1864 and 1867, during the Civil War, for a cousin of Benedict Arnold. Mr. Barkin has made a substantial investment in the house and landscape. Mr. Barkin stated that in his opinion what he is asking for is of minimum expense to the Applicant, that he is not willing to compromise on this and if it is not approved, he will need to seek other means to stop the project. This would cause other expenses and delays for the Applicant and the increase in their business and making money would be delayed. Mr. Barkin stated that he should have full enjoyment of his property without a parking area 30 feet from the property line.

Mr. Slocum asked if he was referencing Mr. Miller's estimate of where the parking lot was

located, because it was his opinion that this was an estimate. Mr. Revens stated that he believes the distance is more than 30 to 35 feet. Mr. Barkin responded that it didn't matter if it was 30 or 50 feet, he was still in objection.

Mr. DePasquale stated for the record, that the plans submitted and before the Board scale to approximately a 60 foot setback from the property line.

Mr. Slocum asked Mr. Barkin when he purchased his property. Mr. Barkin replied, in 1988.

Mr. Slocum asked if the dental office and apartments were there when he bought his property. Mr. Barkin responded, yes they were.

In response to several statements made in the document prepared and read by Mr. Barkin, Mr. Slocum explained that any conversations and agreements that were made "off the record" are not something that the Board has knowledge of, or that can factor into any decision making.

Mr. Mulhearn asked Mr. Barkin if the berm was the main issue. Mr. Barkin stated it was more than just the berm, that he and his wife had requested in a letter submitted to the City Council, a 3' berm, 20' plantings touching each other in order to create an instant screen, planted along the entire westerly property line. He stated that he was promised a substantial screen and that what was presented does not constitute a substantial screen.

Mr. DePasquale explained that as part of the City Council zone change, PCO-10-12, the City Council as a body included a stipulation regarding landscaping. Mr. DePasquale read the stipulation. When the Planning Department reviewed the landscape plan submitted by the consultant, the Department was not satisfied that it provided an adequate buffer and made the recommendation that this buffer be supplemented by changing species and increasing the size of some of the plant material. The Department looked at the existing conditions, the proposal and the recommendation of the staff Landscape Project Coordinator and stands by the recommendation as put forth.

Mr. DePasquale stated that the Applicant had hired a consultant, Soule and Associates, who had prepared a plan dated September, 2012. It is the Planning Department's recommendation that the plan be revised to remove 6 of the 11 proposed Rhododendrons and replace these with 6, 6' -7' Techny Arborvitae, to increase the size of the 4 white firs to 6' -7' and to increase the size of the 3 Blue Spruce to 6' -7' in height. In addition, the Planning Department is recommending that the planting be installed in a staggered pattern and in a way to maximize screening.

Mr. Slocum stated that the Board relies on the expertise of the Landscape Project Coordinator and the professional who prepared the plan to provide a landscape buffer that is adequate.

Mr. Barkin asked if he could have his landscape professional review the plan. He stated that he had not received a copy of the plan and did not have adequate time to review and comment on it.

Ms. Stenhouse asked Mr. Barkin if he is planning on selling his house in the near future. He responded, no. Ms. Stenhouse responded that the Board reviews projects with specific

guidelines and does not base decisions on speculation. She stated that this business was located on this site when Mr. Barkin bought his house and that the Applicant is looking to improve the property.

Mr. Slocum asked Dr. Kirk if the business was intensifying or staying in the same condition as when Mr. Barkin purchased his house. Dr. Kirk responded that he is not increasing the business. Dr. Kirk stated that there are three dentists there now and that is what they are planning on keeping. Mr. Slocum asked if the primary reason for the proposal was for ADA compliance. Dr. Kirk responded, yes.

Mr. Mulhearn asked Mr. Barkin if he had received notice. Mr. Barkin said he had, about a week or so before the hearing date.

Ms. Gerlach asked legal council, Peter Ruggiero for an opinion on the written information submitted by Mr. Barkin. Mr. Ruggiero stated that none of the preparatory comments in the narrative are relevant to the Board's decision. They are all in reference to the City Council hearing and are provided by Mr. Barkin for reference. Mr. Ruggiero stated that this project is properly before the Board, having been correctly noticed and advertised.

Mr. and Mrs. Edward Sivacek, 46 Corey Avenue, asked about landscaping that would screen their property. Mr. Revens stated that there is a wooded lot between their property and the parking area. If there is any other landscaping that they may want that is consistent with the plan, the applicant will consider putting it in. The abutters stated they have no objections to the proposal.

Mr. Lister of 57 Chace Street stated that he has been to every one of the meetings and that he is in favor of this project. Mr. Revens asked Mr. Lister how long he has lived at this location. Mr. Lister responded 36 years. Mr. Revens asked if he was ever disturbed during this time by anything that has happened on the Applicant's property. Mr. Lister responded, no, he had no complaints about noise or unruly behavior.

With no further comments from the public, Ms. Stenhouse made a motion to close the public hearing. The motion was seconded by Mr. Horowitz. All voted in favor.

Mr. Depasquale read the Planning Departments findings and recommendation into the record, as follows:

The Applicant is requesting Preliminary approval of a Major Land Development Project to construct a 1,148 square foot addition to an existing 2,550 square foot dental office. In addition to the office use, the building contains five (5) existing dwelling units.

The Applicant has received approval from the City Council, PCO-10-12, for a zone change from Residential A-15, to Residential A-15, with a Planned Unit Development overlay, with zoning relief for minimum lot area, frontage, and width and greater than allowed total office area, on a lot with a building having less than required side yard setback, driveway width, setback for parking spaces and landscape buffers. Planned Unit Development (PUD) overlay

districts are intended to encourage mixed use developments involving residential and commercial uses. According to the Warwick Zoning Ordinance, Section 309.4. *Residential PUD*, Planned Unit Development projects are eligible for consideration within all residential districts. The mixture of uses shall include residential as the principal use, combined with other uses, such as office or retail.

### **Planning Department Findings**

The Planning Department finds this proposal to be generally consistent with Article 1 “Purposes and General Statements” of the City’s Development Review Regulations, and:

1. Generally consistent with the Comprehensive Community Plan.
2. In compliance with the standards and provisions of the City’s Zoning Ordinance, having received City Council approval for a zone change PCO-10-12 from Residential A-15 to Residential A-15, with a Planned Unit Development overlay, with relief for minimum lot area, frontage, and width, and greater than allowed total office area, less than required building side yard setback, driveway width, setback for parking spaces and landscape buffers.
3. That the Warwick City Council included the following stipulations as integral to zone change PCO-10-12.
  - a. That the use is limited to a dental office with ten (10) operatories.
  - b. That there shall be no separate office use established in the basement area and any future use of the basement is restricted to ancillary or accessory use.
  - c. That the total number of residential dwelling units shall not exceed the five (5) existing units.
  - d. That the landscape buffer shall be increased in order to minimize the impact on the abutting residential area and the landscape buffer must be approved by the Planning Department.
4. That the project received Master Plan approval from the Warwick Planning Board at the April 11, 2012 meeting.
5. That the subject property is located on the westerly side of Post Road and is identified as Assessor’s Plat: 220, Assessor’s Lot: 055, and consists of approximately 57,427 square feet.
6. That surrounding properties fronting on Post Road consist primarily of commercial uses including office and multifamily dwellings.
7. That the parcel abuts residentially zoned property to the north, south and west.
8. That the subject property is located within close proximity to the commercial center of East Greenwich.

9. That in October 1984, the subject property received approval from the Zoning Board of Review, Petition #5283, authorizing the conversion of the existing dwelling and dental office, to five (5) dwelling units and a professional office and that the property has continued to operate in that capacity for the past 28 years.
10. That there will be no significant negative environmental impacts from the proposed development.
11. That the development will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.
12. That the proposed development possesses adequate access to a public street.
13. That the property has access to public sewer and water. Water service is provided by Kent County Water Authority.

### **Planning Department Recommendation**

Planning Department recommendation is to grant Preliminary approval, with Final approval by the Administrative Officer, upon compliance with the following stipulations:

1. That the project engineer shall note the dimensions from the westerly and southerly property lines to the parking area on the Final Plan:
  2. That the Applicant shall modify the landscape plan prepared by Soule & Associates, ASLA; dated September 2012, as follows.
    - i. Remove six (6) of the eleven (11) Rosebay Rhododendron from the back property landscape buffer planting and replace with six (6), 6 to 7 foot Techny Arborvitiates.
    - ii. Increase the size of the four (4) White Fir/Abies Concolor to 6 to 7 feet in height.
    - iii. Increase the size of the three (3) Blue Spruce/Picea pungens, 'Colorado Green' to 6 to 7 feet in height.
    - iv. When installing the back landscape buffer evergreen plantings, stagger the planting locations to create a double row of plantings.
    - v. The Warwick Landscape Project Coordinator shall be contact prior to the commencement of any planting.
    - vi. The revised landscape plan shall be submitted to the Landscape Project Coordinator and subject to approval by the Planning Department
  3. All landscaping must be maintained in healthy condition for the life of the project, as per Warwick Zoning Ordinance, 505.7(B) *Maintenance of Landscaped Areas*.
- A motion to approve was made by Ms. Stenhouse and seconded by Mr. Gambardella. Roll was called. All voted in favor, agreeing with the findings and recommendations as read.

Mr. Kiernan returned to the table.

No comments on the reported Administrative Subdivisions.

Annual elections were held. A motion was made by Mr. Mulhearn to nominate Mr. Slocum as Chairman and Mr. Gambardella as Vice Chair. The motion was seconded by Ms. Stenhouse. No other nominations were put forth. All voted in favor.

The meeting was adjourned at 7:50 pm.